

9/15/21, 6:57 PM

Gmail - paul smith



paul Smith <silence9244@gmail.com>

paul smith

4 messages

paul Smith <silence9244@gmail.com>
To: James Hux <jhux@huxlawfirm.com>

Sun, Jul 25, 2021 at 5:09 PM

Good afternoon James .

I just wanted to apologize for you witnessing me breakdown and crying. When you made the comment that you were not interested in spending any more money on the case, how the case will get dismissed, or to accept a lower paying job, or asking me why I even want to go back to the county. Clearly I was affected by your legal advice and feeling you were representing the employer and not me. I need you and the county to know with much dismay the demand of getting my pension, job title , seniority, accumulated vacation/ sick time, hourly rate, pay differently for being on workers comp and pain and suffering and mental anguish are my demands and I will not accept anything less.

sincerely Paul Smith

James Hux <jhux@huxlawfirm.com>
To: paul Smith <silence9244@gmail.com>

Mon, Jul 26, 2021 at 1:00 PM

Paul,

I don't mind your getting emotional, but it's pretty clear at this point that you don't want to follow or consider my legal advice and there is a complete breakdown in the attorney-client relationship.

As a result, I will be filing a motion to withdraw and ending my representation of you in this matter. I will file a motion to withdraw in both your federal case and state case.

I suggest you talk to another attorney as soon as possible. Once you have retained one, let me know so I can give them documents associated with your case. I will also send the information to you. If you are having trouble finding one, please contact the Cleveland Metropolitan Bar Association and see if they have someone they can refer to you.

I wish you the best going forward with your case.

Sincerely,

James

James J. Hux, Esq.
Hux Law Firm, LLC
Phone: (937) 315-1106
Fax: (216) 359-7760
Email: jhux@huxlawfirm.com
www.huxlawfirm.com

[Quoted text hidden]

--

Sincerely,

James J. Hux, Esq.
Hux Law Firm, LLC

sent via mobile, please excuse any typos

9/15/21, 7:54 PM

Gmail - (no subject)



paul Smith <silence9244@gmail.com>

(no subject)**James Hux** <jhux@huxlawfirm.com>
To: paul Smith <silence9244@gmail.com>

Fri, Aug 13, 2021 at 1:00 PM

Paul,

Respectfully, I'm not sure you're understanding the case. The County made its decision based on the paperwork available to it at the time, which all still said no exposure up until and after you were disability separated. This new document is not until 2021. Once you get temporary total, you are essentially saying you are unable to work for purpose of an employment discrimination case, regardless of however your workers' compensation interprets it.

There are actually documents you submitted in your own handwriting that also say no exposure and use the same language as the Medco 14 and Allied before where it says no exposure. You admitted to the documents being in your handwriting under oath during the deposition.

You keep mentioning the same argument, but ultimately I do not think it gets anywhere. This is why all the attorneys you are talking to are pointing out the same issues. Honestly, if I had known about what the Medco-14s and Allied paperwork said in the beginning, I would not have taken this case. Despite myself and others explaining the many issues with the case, you're refusing to acknowledge them. If you believe that you know the law better than myself or any of the other lawyers, you're able to represent yourself. You would have to call the Court and let them know.

Despite all the issues with your case, the County reached out to me to clarify what the position offer was at mediation. Here are more details:

This position is represented by Laborers Local 860, which is the same union that now represents Mr. Smith's former bargaining unit at public works. If this is something that interests Mr. Smith, we can get some more detail about benefits and the like. But many of his benefits would continue. And any placement above the beginning of the pay scale would have to be worked out with the union, but we feel optimistic that we can place him at the top rate allowed by the existing contract (\$19.02). This contract is up for renegotiation this year, which means that there will likely be a raise pay next year above cost of living.

Yes, this pays less. No, it's not in Public Works. But you get to keep most, if not all your benefits, the same Local Union, and the benefit of a collective bargaining agreement. Keep in mind like I said, they do not have to put you in the same position. Even if by some miracle you make it to trial and by some greater miracle you win, they probably aren't going to have to put you in the same position. Especially if that position is gone or someone else is working it. This is the beginning of a conversation to keep your benefits and get you a job back and I'm trying to see what else they can do.

There will also be an additional monetary amount that I would need to workout with them on top of this. It would not be as much as if you were leaving completely, but it will be more than what the case would be worth.

You are in a bad, unwinnable situation because of what was going on with workers' comp. For that I am sorry and honestly you may want to consider talking to someone to see if there was any misconduct there. I am trying to help, but you need to first acknowledge there are issues with your case. Until you do, you'll just end up with nothing. I'm sorry, but this is where we are based on the actual facts of the case.

Sincerely,

James

James J. Hux, Esq.
Hux Law Firm, LLC
Phone: (937) 315-1106
Fax: (216) 359-7760
Email: jhux@huxlawfirm.com
www.huxlawfirm.com

9/15/21, 7:55 PM

Gmail - (no subject)



paul Smith <silence9244@gmail.com>

(no subject)

paul Smith <silence9244@gmail.com>
To: James Hux <jhux@huxlawfirm.com>

Fri, Aug 13, 2021 at 1:44 PM

Respectfully James I've spoken to the ADA and job accommodation network, the county has to follow the ADA laws James' bottom line. They can only offer reassignment to another job if they can prove that I can't perform the essential duties with or without an accommodation and thats after It has been proven that I cant work in the position they had me in or other jobs like in camera, house, I&I and vac department. The employer cant say because they don't like the words "no exposure" on a medco 14 that they will not accommodate, the facts are the type of dust in which I was injured, and the tool used that created the dust have been well documented by david garcia (dust from dry saw) which causes airborn silica. There vacancies in the camara depart and we absolutely no there are vacancies in house, vac, and I&I . So again Im really sorry you took this case as well I truly wish things where different, hopefully I will get someone to take this case and you can move on. Until then if the court can prove the county has followed every step of the ADA law then I will do what the court says. I will not be willing to negotiate a 19 dollar hour job when the ADA says I should get and eaquel paying job unless proven otherwise.

[Quoted text hidden]

9/15/21, 8:02 PM

Gmail - Paul Smith: Order on Deadlines for Case



paul Smith <silence9244@gmail.com>

Paul Smith: Order on Deadlines for Case

James Hux <jhux@huxlawfirm.com>
To: Paul Smith <silence9244@gmail.com>

Wed, Sep 8, 2021 at 12:27 PM

Paul,

I still have not received any written response to the above or the documents you said you had. Please send this information to me asap.

Sincerely,

James

James J. Hux, Esq.
Hux Law Firm, LLC
Phone: (937) 315-1106
Fax: (216) 359-7760
Email: jhux@huxlawfirm.com
www.huxlawfirm.com

On Wed, Aug 25, 2021 at 1:38 PM James Hux <jhux@huxlawfirm.com> wrote:

Paul,

To make sure everything is documented, I think it will be best to only communicate via email from now on.

Please respond in writing to the following when you can:

- 1) How the progress with your attorney search is going;
- 2) Position on discussing potential for resolution with Katie;
- 3) Your thought on adjusting your restrictions to actually say what you are saying they say-it is not necessary for you to state why you think they shouldn't have to change. I just want to know if you would change them to what you are saying if it meant you could get back to work;
- 4) Individuals who can testify to the open positions and their employment status with the County. Alternatively and much better, if you can obtain the actual job posting you are saying is available, please send it as soon as possible.

Sincerely,

James

James J. Hux, Esq.
Hux Law Firm, LLC
Phone: (937) 315-1106
Fax: (216) 359-7760
Email: jhux@huxlawfirm.com
www.huxlawfirm.com

[Quoted text hidden]

9/15/21, 8:03 PM

Gmail - Paul Smith: Order on Deadlines for Case



paul Smith <silence9244@gmail.com>

Paul Smith: Order on Deadlines for Case

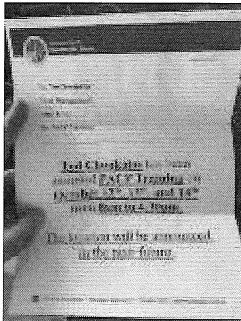
paul Smith <silence9244@gmail.com>
To: James Hux <jhux@huxlawfirm.com>

Tue, Sep 14, 2021 at 5:11 PM

Good afternoon James. Sorry for the late reply, I talked to NRS. They understand that I'm not settling and I was waiting on a response from Mr. Hans at Nilges Draher. Mr. Hans stated today he would have taken the case based on the documents I sent him that the case has merit. Due to the strategy of the complaint and Judge Gwinn's schedule Mr. Hans stated it would be difficult for his law firm to take the case. He suggested that you and I work together because the case is so far along and to tell the county that I will not settle and that I want my trial. I already know your position on my case so I will take your advice and see if the judge will grant me *per se* via mail request. I attached a letter that has been passed out to at least four leadmen to get licensed for the CCTV department, you can contact Mr. Colin Sikon (local 860) 216-339-4386 about any vacancies in the sanitary sewer division and you can call Dave Anielskei (216) 939-6177 who is retiring this month in the CCTV department, and Ted Choukalas (440) 521-2915 who was accommodated after documenting with workers comp to no exposure to dust from cement (silica dust). Attached also is the leadman job description and no mention of a requirement or essential duty to use a dry saw in CCTV, JET VAC or HOUSE LATERAL. CATCH BASIN REHAB is the only assignment that using a wet saw with a mask is required or essential to do the job.

[Quoted text hidden]

5 attachments



IMG_70231.jpg
276K



IMG_69501.jpg
115K

sewer m.pdf
211K

LEADMAN.des.pdf3.pdf
84K

leadman2.pdf
105K



paul Smith <silence9244@gmail.com>

Paul Smith: Order on Deadlines for Case

James Hux <jhux@huxlawfirm.com>
 To: paul Smith <silence9244@gmail.com>

Wed, Sep 15, 2021 at 12:03 PM

Paul,

I want to clarify some things here:

- 1) There is no guarantee to a trial. Your case could get dismissed before it even gets to that stage. The judge would make the decision to dismiss it.
- 2) As I have said before, I cannot initiate contact to anyone who is still employed with the County. They can contact me, and better yet, they can provide you with a written, sworn statement.
- 3) Unfortunately, Ted's medical slip here doesn't help. I would need to see his actual restrictions in his medco 14 and his ADA form. The other issue with using Ted here is that it essentially destroys your ADA claim. That's because then the County can show they can accommodate It could maybe help the race claim but as I have said throughout, that claim is not particularly strong.
- 4) The openings for leadman that exist now don't matter, because you just said you're not going to settle. So you have to hope that there is an opening in January if you are able to get to a trial, and then hope that you win, and hope that the County doesn't try to challenge the ruling.
- 5) There is a very good chance the County will enforce a COVID-19 vaccine mandate. This means you will have to be vaccinated as a condition of employment. Before you told the judge you were not getting vaccinated. You will likely not have a choice, so you should probably set up an appointment to get vaccinated.
- 6) The reason I filed a motion to withdraw is because you told me that you felt like I was working for the County in the mediation. Although that typically would be enough to get granted, I cannot disclose that information to the Court because it would hurt your case. You have not officially fired me from representation so I am still working the case as best as I can.

As I have stated before, I strongly believe your plan is not the best course of action for you, and I have disclosed the risks of getting your case dismissed, which include losing all your accumulated benefits, pension, etc. The County has offered a position currently that pays less, but would allow your benefits to continue and in combination with workers' compensation wage loss benefits, would essentially put you at the same wages. You have rejected this outright, against legal advice saying to consider it.

Please confirm in writing that you are asking me to take all of this action against my legal advice and that you understand your decision to do so could result in an outcome far worse than if you did follow my legal advice.

Sincerely,
James

James J. Hux, Esq.
 Hux Law Firm, LLC
 Phone: (937) 315-1106
 Fax: (216) 359-7760
 Email: jhux@huxlawfirm.com
www.huxlawfirm.com

[Quoted text hidden]

9/15/21, 8:04 PM

Gmail - Paul Smith: Order on Deadlines for Case



paul Smith <silence9244@gmail.com>

Paul Smith: Order on Deadlines for Case

James Hux <jhux@huxlawfirm.com>
To: paul Smith <silence9244@gmail.com>

Wed, Sep 15, 2021 at 3:02 PM

Paul,

During our recent call you accused me of ignoring the messages of two individuals you believe had relevant information for your case. This is not true and I am documenting the fact in writing. I will coordinate calls with the individuals when I am available. Unfortunately, I have other cases that I must work on at the same time, and I am not available every day to connect with the witnesses.

I also informed you that my legal advice was to take the lower paying position, and use working wage loss to accept to make the difference. I also outlined this in an email to you sent September 15, 2021 at 12:03 p.m. Although for some reason you are unwilling to confirm in writing that you are rejecting my legal advice and instead want to "take it to trial", I am documenting that by rejecting my legal advice to take the offer, you are directing me to take an action that is against legal advice.

Sincerely,

James

James J. Hux, Esq.
Hux Law Firm, LLC
Phone: (937) 315-1106
Fax: (216) 359-7760
Email: jhux@huxlawfirm.com
www.huxlawfirm.com

[Quoted text hidden]



paul Smith <silence9244@gmail.com>

Paul Smith: Order on Deadlines for Case

James Hux <jhux@huxlawfirm.com>
To: paul Smith <silence9244@gmail.com>

Thu, Sep 16, 2021 at 1:09 PM

Paul,

I still need to know your vaccination status. As I mentioned before, the County is likely going to issue a mandate for COVID-19 vaccination, so you will likely need to be vaccinated to return to work. I have included the following link for your reference so you can confirm the truth in what I'm relaying to you. <https://www.cleveland.com/news/2021/08/cuyahoga-county-considering-covid-19-vaccine-mandate-for-employees-but-wants-to-try-100-incentives-first.html>

Please confirm whether or not you are vaccinated, and if not, when you have scheduled your vaccination so that you will be fully prepared to return to work.

Sincerely,

James

James J. Hux, Esq.
Hux Law Firm, LLC
Phone: (937) 315-1106
Fax: (216) 359-7760
Email: jhux@huxlawfirm.com
www.huxlawfirm.com

[Quoted text hidden]



paul Smith <silence9244@gmail.com>

Paul Smith: Order on Deadlines for Case

paul Smith <silence9244@gmail.com>
To: James Hux <jhux@huxlawfirm.com>

Thu, Sep 16, 2021 at 1:22 PM

Whenever I return back to the Cuyahoga county public works sanitary sewer division I will comply with the covid 19 protocols.

[Quoted text hidden]